

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Jacqueline Ann Lewchenko

Serial No.: 10/605,859

Filed: October 31, 2003

Title: NAIL APPLICATION CONTAINING
GOTU KOLA

Date: July 20, 2006

Customer No. 27717

Group Art Unit: 1615

Confirmation No. 2858

Examiner: Mercier, Melissa S.

I hereby certify that this correspondence is being
transmitted to the United States Patent and Trademark
Office on July 20, 2006, via the web-based Electronic
Filing System.

/Joseph R. Lanser/ July 20, 2006
Joseph R. Lanser Date

Mail Stop Non-fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

This is in response to the Office Action mailed June 28, 2006, in which the examiner
required restriction to one of the following inventions:

- I. Claims 1-8, drawn to a composition having a total weight for topical application
on a nail comprising gotu kola and a film former, classified in class 424, subclass
061;
- II. Claim 9, drawn to a topical nail application composition comprising a nail
lacquer, at least one additional component and gotu kola, classified in class 424,
subclass 061; and

III. Claim 10, drawn to a nail treatment application, classified in class 424, subclass 061.

It is believed that the examiner has misidentified Group III, as claim 11 is dependent on claim 10. The applicant therefore believes, for purposes of this response, that the examiner intended the identification of Group III to include claim 10.

Pursuant to 37 C.F.R. § 1.143, the applicant respectfully traverses, and requests reconsideration and withdrawal or modification of the restriction requirement. The subject matter of the claims of identified Groups are not distinct from each other.

Specifically, claims 1-8 recite a novel composition for topical application on a nail. This is the same type of novel nail application that is recited in claims 9, and 10-11. All of the claims therefore rely on the particulars of the novel composition for topical application on a nail comprising gotu kola for patentability. While claim 10 may claim a nail treatment application, such treatment application is still a composition for topical application on a nail. This is further evident from the fact that all of the claims have been classified within the same class and subclass. Accordingly, the applicant respectfully requests reconsideration and withdrawal of the restriction requirement.

Nonetheless, in accordance with 37 C.F.R. § 1.143, the applicant hereby provisionally elects, with traverse, claims 1-8 of Group I, for further prosecution on the merits in this application.

Respectfully Submitted,

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